



## CITY OF HAYWARD AGENDA REPORT

Meeting Date: 4-11-02

Agenda Item: 2

**TO:** Planning Commission

**FROM:** Norman Weisbrod, Consulting Project Planner

**SUBJECT:** Appeal of Planning Director Denial of Variance Application No. PL-2001-0478 - Dan and Yvette Martin (Applicants/Owners): A Request for Reduction of a Rear Yard from 10 feet to 7 feet and the Reduction of the Interior Side Yard From 10 feet to 6 feet 6 inches to Allow a Multi-Purpose Room and Bathroom Addition

The Property Is Located at 31275 Hershey Way in a RS (Single-Family Residential) Zoning District

### **RECOMMENDATION:**

Staff recommends that the Planning Commission:

1. Find that the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301 *Existing Facilities*; and
2. Deny the variances, subject to the attached findings.

### **BACKGROUND:**

This property is located at the northwest corner of Hershey Way and Oakhill Way in the Fairway Park neighborhood. The lot has an irregular shape with an area of 7,252 square feet.

The property is developed with a 1,410 square foot 3-bedroom and 2-bath one-story home with an attached 2-car garage. The home was constructed in 1955 as part of the Fairway Park neighborhood. The home is similar in size to other homes in the surrounding neighborhood. The applicant is requesting to construct a large addition at the rear of the home representing a 66 percent increase in the floor area of the home. The proposed addition would be single-story and consist of a 939 square foot multi-purpose room, a full bathroom and a small closet. The proposed addition has stucco walls and a composition roof to match the style of the existing home. A sliding patio door would provide access to the rear yard from the multi-purpose room.

The rear yard requirement in the RS District is 20 feet. However, for a single-story addition, the rear yard may be reduced to 10 feet as long as the addition does not cover more than 20 percent of the required rear yard. The applicant is proposing to reduce the rear yard to 7 feet. The interior side yard requirement in the RS District is 10 percent of the lot width with a minimum of

5 feet and a maximum of 10 feet. This parcel is 110 feet wide requiring a 10-foot interior side yard. The applicant is proposing a 6-foot 6-inch side yard.

Staff believes that the required findings to approve the variance cannot be made. If the variance is approved, the applicant would receive a special privilege not given to their neighbors and there are no special circumstances that apply to this property that prevents a sizable room addition to the rear of the home. Even though the property has an unusual shape, the parcel is substantially larger than the typical 5,000-square-foot lot in the surrounding neighborhood. There is a large area behind the home to place an addition without the need for a variance. The applicant could reduce the depth of the room by 3 feet and the width by 3 feet 6 inches to conform to the required setback and still add a room with an area of 713 square feet without the need for a variance. It would also be possible to extend the addition along the rear of the home to gain some of the square footage lost with the setbacks that conform to the RS requirements. They also have the option of constructing a second story on the home to gain additional living area.

The applicant submitted a number of streets in the area and asked staff to check for room additions. Staff found three sites where the homeowner applied for a variance for the room addition as follows:

- Carroll Avenue – In 1988, a variance was approved to reduce the interior side yard setback from 10 feet to 5 feet for the corner of a 7-foot by 30-foot room addition. The home was sited at an angle to the interior side yard and only a small corner of the building encroached into the 10-foot side yard.
- Fairway Street - In 1964, a variance request was denied to reduce the rear yard to 6 feet 6 inches for an 18-foot by 31-foot room addition at the rear of the home on a typical 55-foot by 99-foot parcel.
- Hershey Way – In 1964, a variance was granted to reduce the rear yard from 20 feet to 12 feet for a 16-foot by 24-foot addition covering more than 20 per cent of the required rear yard. This property was the typical 55-foot by 99-foot parcel (5445 square feet) in this neighborhood. This addition would not require a variance under the current Zoning Ordinance relative to the 12-foot setback.
- In May of 2000, the Planning Commission granted a variance for a room addition in the Fairway Park neighborhood to reduce the required side yard from 7.5 feet to 6 feet and to exceed the maximum lot coverage of 40 percent. This was on a corner parcel that was below the minimum lot area for a corner parcel.

Although other variances were granted in the Fairway Park area relative to setback requirements, each application was judged on its own merits. Staff found no variances that were granted that would have set a precedent for approval of subject application.

**ENVIRONMENTAL REVIEW:**

The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA), pursuant to Section 15301, of the Guidelines "Existing Facilities."

**PUBLIC NOTICE:**


On April 1, 2002, a Notice of Public Hearing for the Planning Commission meeting was mailed to all property owners and residents within 300 feet of the project site. Notice was also provided to the Fairway Park Homeowners Association and the Fairway Park Neighborhood Task Force members.

Staff received a call from a resident in the area who expressed concern regarding the variance request. Her concern was that granting this variance would encourage other homeowners in the vicinity to also apply for variances for room additions. She felt that homeowners should comply with the setback requirements for the RS District.

**CONCLUSION:**

It is staff's opinion that there are no special circumstances applicable to this property that would support the granting of the variance to the rear yard or interior side yard setbacks. There is adequate space at the rear of the home to add a room without the need for a variance. The approval of the variance would be granting a privilege to the applicant not enjoyed by other property owners in the vicinity under the same zoning classification. Although this parcel has an unusual shape, it will accommodate a room addition that exceeds the size addition that can be constructed on the typical 55-foot by 99-foot parcel in the surrounding neighborhood.

Prepared by:

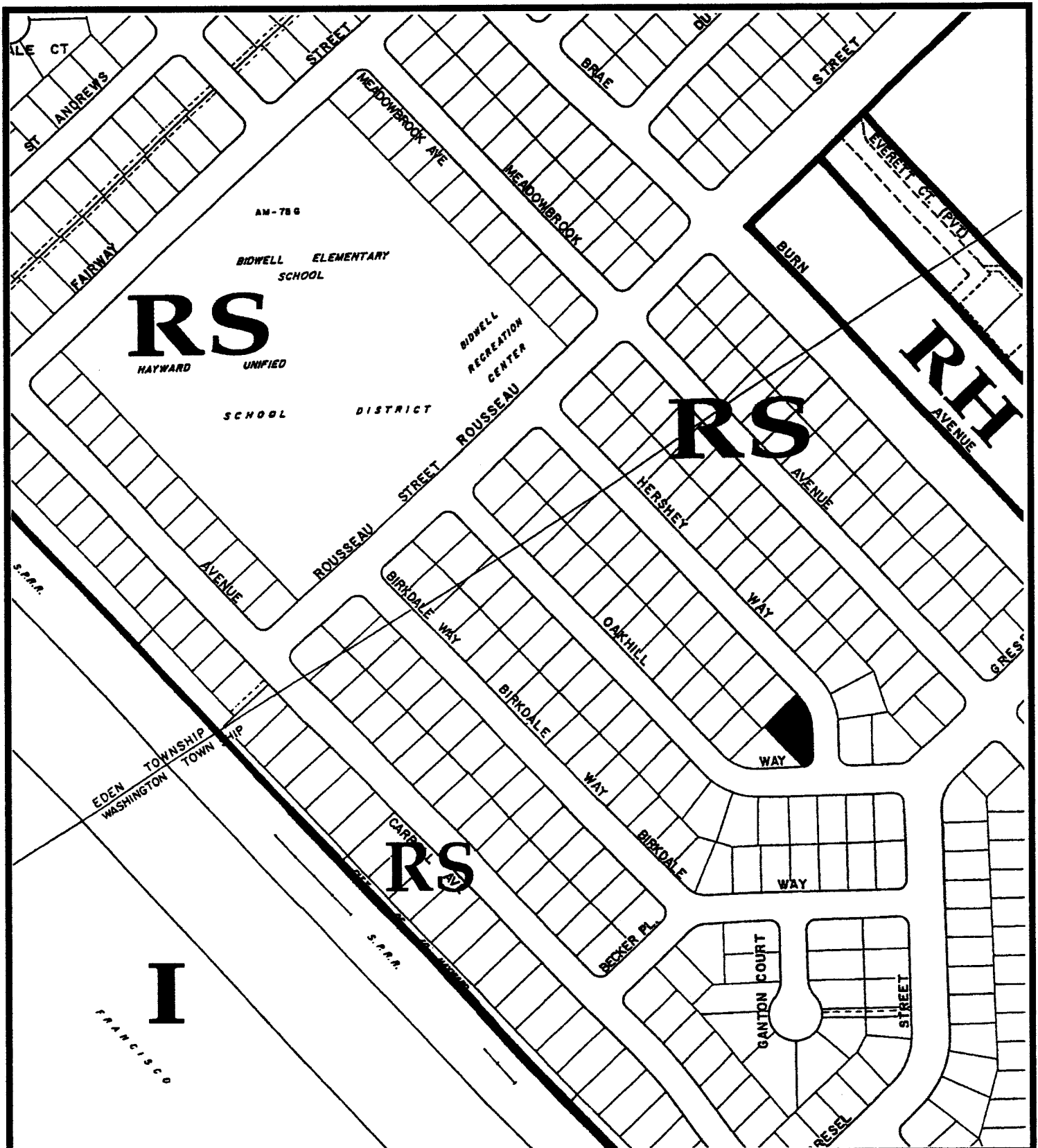
  
Norman Weisbrod  
Consulting Project Planner

Recommended by:

  
Dyana Anderly, AICP  
Planning Manager

Attachments:

- A. Area Map
- B. Findings for Denial
- C. Appeal Letter Dated March 4, 2002  
Plans



### Area & Zoning Map

PL-2001-0478 VAR

Address: 31275 Hershey Way

Applicant: Yvette Martin

Owner: Dan & Yvette Martin

**VARIANCE APPLICATION NO. 01-0478**  
**Dan and Yvette Martin (Applicants/Owners)**  
**31275 Hershey Way**  
**FINDINGS FOR DENIAL**

**Findings for Denial** – Request to construct an addition to a single-family residence 7 feet from the rear property line where a minimum of 10 feet is required and 6 feet 6 inches from the side property line where 10 feet is required.

- A. The proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) guidelines, pursuant to Section 15301, *Existing Facilities*.
- B. There are no special circumstances applicable to the property regarding this variance request in that the property is larger than the majority of the properties in the surrounding neighborhood and there is adequate rear yard area for an addition.
- C. Strict application of the Zoning Ordinance would not deprive such property of privileges enjoyed by other properties in the vicinity under the same zoning classification in that there is adequate room at the rear of the existing home for a substantial room addition without the need for a variance.
- D. The variance would constitute a grant of a special privilege inconsistent with the limitations upon other properties in the vicinity and zone in which the property is situated in that additions to homes built on similarly sized parcels have not been issued variances to build room additions encroaching into the rear and interior side yard.



March 4, 2002

Norman Weisbrod  
Consulting Project Planner  
Department of Community and Economic Development  
City of Hayward  
777 "B" Street  
Hayward, CA 94541-5007

Subject: PL-2001-0478 - 31275 Hershey Way

Dear Mr. Weisbrod:

We were disappointed at the decision of the Planning Director regarding our proposed addition variance request based on not meeting any of three necessary findings. Although we had numerous discussions with staff, it was not clear that there were three particular findings that your review would be based upon. Thank you for faxing a copy of the exact language to us so that we could better grasp the reason for the denial.

However, in the discussion with planning staff these very points listed in the findings were actually addressed. Namely, that although our lot is larger than most in our neighborhood it is of an unusual shape that limits where the addition can be placed. Also, we gave a list of addresses in the neighborhood to staff, which had additions, and we believed required similar variances. At that time we requested a confirmation of this on these homes. Months later we now receive instead a denial of our request with no mention of the outcome of investigation of these properties.

Mr. Weisbrod, we appreciate that you were handed this project mid-stream and that things happen inadvertently when projects switch from one person to another. However, we believe we do meet all three findings and are concerned now that a thorough review of the variances granted in our neighborhood was never undertaken. Without such a review a determination cannot be made regarding the second and third finding.

Therefore, we request the city review its records of additions to homes in the Fairway Park neighborhood for similar variances. We would be happy to resubmit the addressees we are aware of having made additions.

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*Dan and Yvette Martin*  
31275 Hershey Way \* Hayward, CA 94544 \* (510) 489-0481

ATTACHMENT C

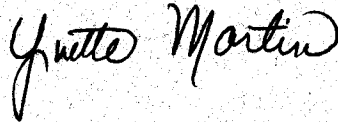
 Martin 

Page Two  
Mr. Norman Weisbrod  
March 4, 2002

However, since your department is responsible for the issuing of permits and variances in the city and keeping records of them your department could compile a better and more accurate list. Since many people in the neighborhood appear to be choosing to stay and upgrade their homes, as we are, I am sure that the results of such a review would be beneficial and time saving for future requests.

We also, hereby request an appeal of the Planning Director's denial of our referenced variance.

Sincerely,



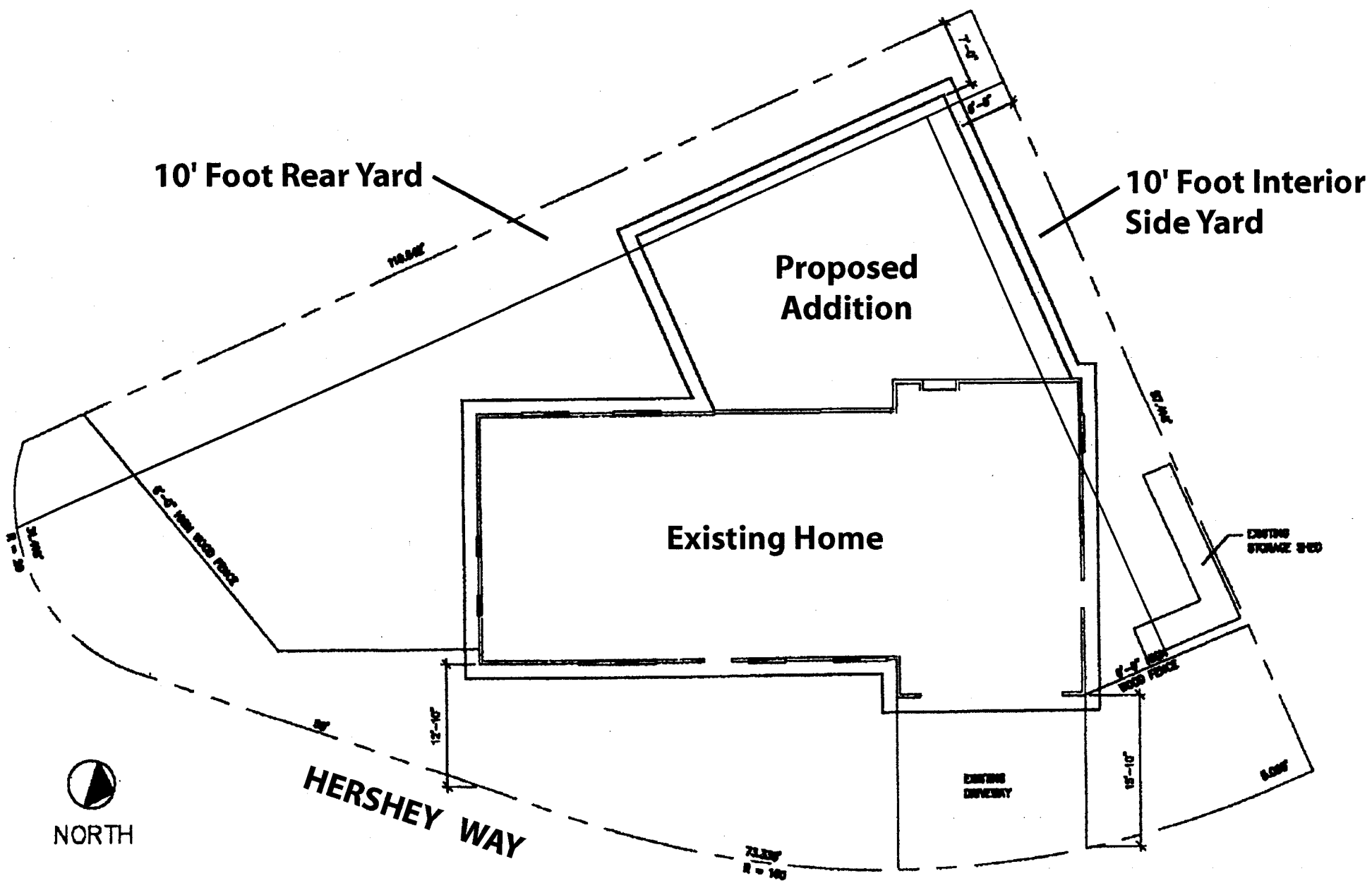
Dan and Yvette Martin

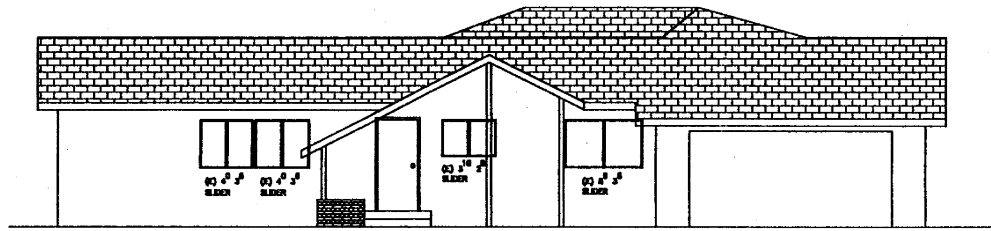
cc: Dyana Anderly, Planning Manager

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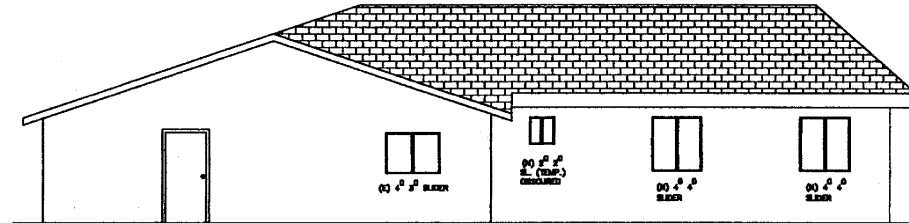
*Dan and Yvette Martin*  
31275 Hershey Way \* Hayward, CA 94544 \* (510) 489-0481



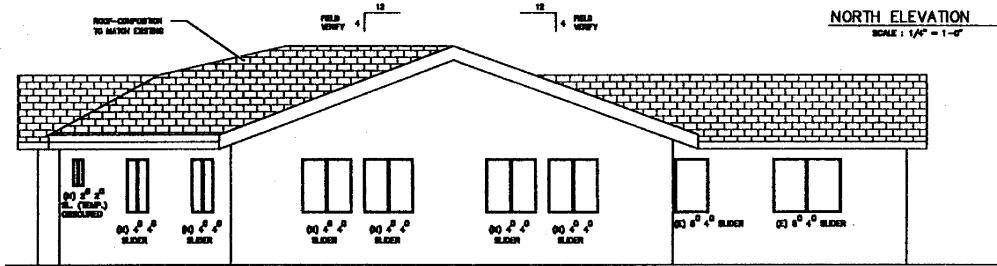




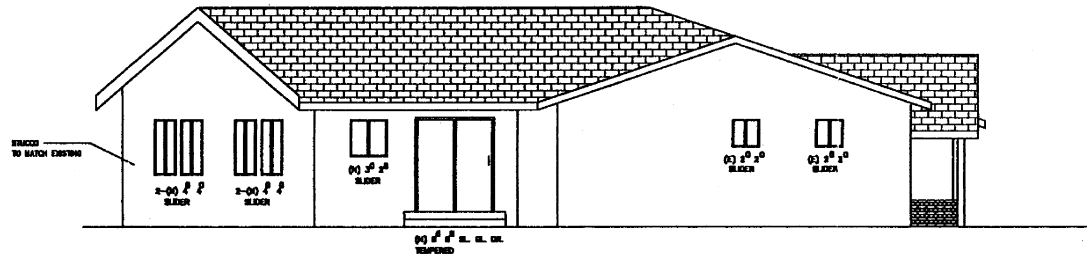
EAST ELEVATION  
SCALE: 1/4" = 1'-0"



NORTH ELEVATION  
SCALE: 1/4" = 1'-0"



WEST ELEVATION  
SCALE: 1/4" = 1'-0"



SOUTH ELEVATION  
SCALE: 1/4" = 1'-0"

REVISIONS	BY

VICTOR J. BERNARDI

ARCHITECT

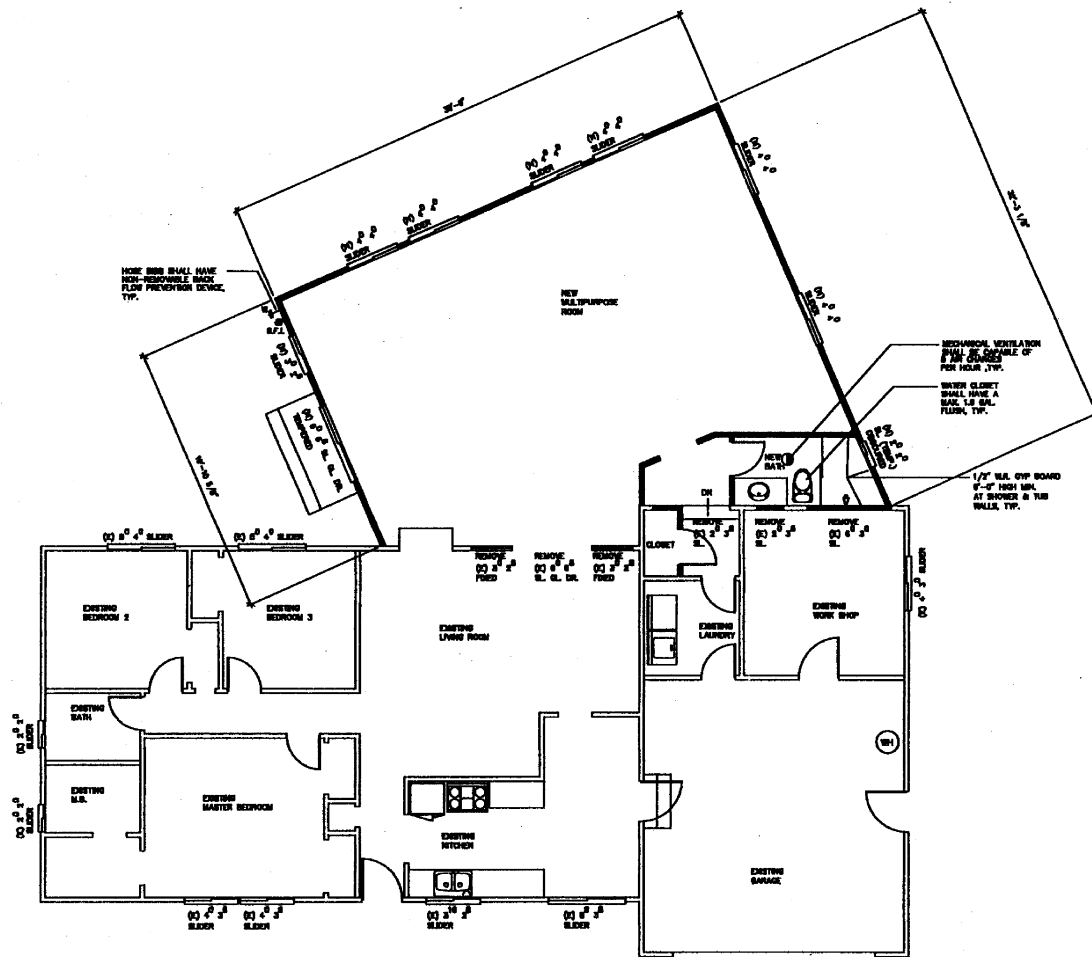
MARTIN RESIDENCE  
PROPOSED ADDITION  
31275 HERSHEY WAY  
HAYWARD, CA

ELEVATIONS

DESIGNED BY  
V.J. BERNARDI  
DATE  
11-28-81  
SCALE  
AS SHOWN  
JOB NO.  
810021  
SHEET

A2

01-18-2010



FLOOR PLAN  
SCALE: 1/4" = 1'-0"

- NOTES:
- 1.) CEILING HEIGHT FOR ALL NEW ROOMS TO BE 8'-0"
  - 2.) ALL NEW WINDOWS TO BE DOUBLE GLAZED
  - 3.) THE REQUIRED VENTILATION AREA SHALL BE 1/150 OF ATTIC AREA OR 1/200 OF ATTIC AREA IF HALF OF THE VENT AREA IS PROVIDED BY VENTILATORS MORE THAN 3 FT. ABOVE EAVE VENTS PROVIDING THE REMAINING PORTION OF THE VENT AREA OPENINGS TO HAVE 1/4 INCH CORROSION RESISTANT METAL BUSH COVERING (UNC 280.3)
  - 4.) THE UNDERFLOOR VENTILATION SIZE AND LOCATION IS EQUAL TO 1/150 OF UNDERFLOOR AREA. OPENING SHALL BE AS CLOSE TO CORNERS AS PRACTICABLE AND SHALL PROVIDE CROSS VENTILATION ALONG THE LENGTH OF AT LEAST TWO OPPOSITE WALLS. OPENINGS SHALL HAVE 1/4 INCH CORROSION RESISTANT METAL BUSH COVERING (UNC 280.3)
  - 5.) STUDS APPLICATION SHALL BE 3 LAYERS 7/8 INCH THICKNESS WITH TWO LAYERS OF SHADE 1" PAPER UNDERLAMENT A DEEP SCREW SHALL BE PROVIDED WITH A 4 INCH CLEARANCE TO SHADE
  - 6.) WATER HEATING SHALL BE SECURED TO RESIST EARTHQUAKES. FOR SECTION SHALL BE ONE AT UPPER END AND ONE AT LOWER ONE-WAY OF VERTICAL DIRECTION WITH THE LOWER STRAP BEING A MINIMUM DISTANCE OF 4 INCHES ABOVE THE CONTROLS.
  - 7.) WATER HEATERS TO RECEIVE A THERMAL BLANKET OF R-13 PER THE VUE IN COMPLIANCE DOCUMENT.
  - 8.) FURNACE AND WATER HEATER INSTALLATION MUST COMPLY WITH USC CHAPTER 3 AND UPC CHAPTER 802, ALSO USC CHAPTER 7, COMMISSION AIR
  - 9.) SMOKE DETECTORS SHALL RECEIVE THEIR PRIMARY POWER FROM THE BUILDING WIRING WHEN SUCH WIRING IS SERVED FROM A COMMERCIAL SOURCE AND SHALL BE EQUIPPED WITH A BATTERY BACKUP. THE DETECTOR SHALL SEND A SIGNAL WHEN THE BATTERIES ARE LOW PER SECTION 301.3
  - 10.) LIGHTING  
PROVIDE FLOURESCENT LIGHTING IN THE BATHROOM AND KITCHEN AREA.  
PROVIDE DAMP PROOF TYPE LIGHT FIXTURES OVER TUBS AND SHOWERS.
  - 11.) PROVIDE GROUNDING AND BONDING AT THE ELECTRICAL SERVICE ENTRY IN COMPLIANCE WITH CALIFORNIA ELECTRICAL CODE 1996 ARTICLES 250-53 AND 250-54.

- LEGEND
- SMOKE DETECTOR
  - VENTILATION
  - NEW WALL
  - EXISTING WALL
  - EXISTING WALLS TO BE REMOVED

REVISIONS	BY

DRAWN: <b>REYNOLDS</b> CHECKED: <b>REYNOLDS</b> DATE: <b>11-28-91</b> SCALE: <b>AS SHOWN</b> JOB NO: <b>200013</b> SHEET: <b>01-001</b>
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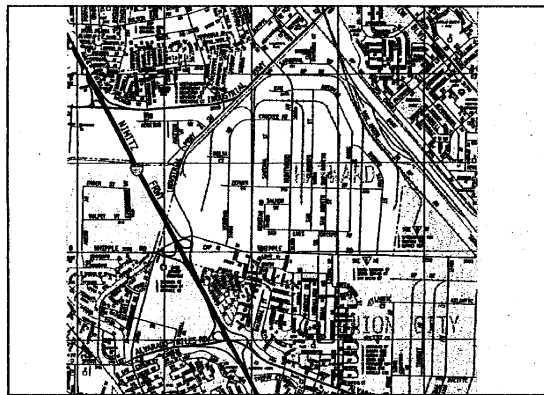
<b>MARTIN RESIDENCE</b> <b>PROPOSED ADDITION</b> <b>31275 HERSEY WAY</b> <b>HAYWARD, CA</b>
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<b>FLOOR PLAN</b>
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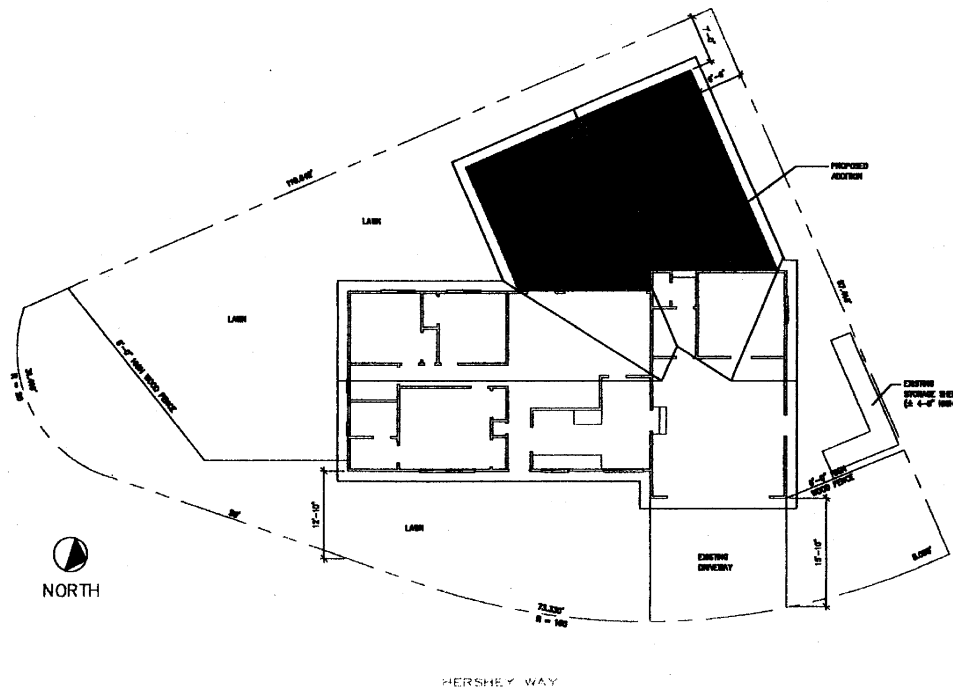
DRAWN: <b>REYNOLDS</b> CHECKED: <b>REYNOLDS</b> DATE: <b>11-28-91</b> SCALE: <b>AS SHOWN</b> JOB NO: <b>200013</b> SHEET: <b>01-001</b>
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ASSESSORS PARCEL NO.	78G 2727 20
ZONE:	RS5914
CONSTRUCTION TYPE	V-N
EXISTING	1430 sq. ft.
NEW ADDITION	938 sq.ft.
TOTAL SQ. FOOTAGE	2368 sq. ft.
EXISTING GARAGE	408 sq. ft.
LOT COVERAGE	38%

A0	PROJECT STATISTICS SHEET INDEX VICINITY MAP SITE PLAN
A1	FLOOR PLAN
A2	ELEVATIONS



VICINITY MAP  
SCALE : N.T.S.



**SITE PLAN**  
SCALE : 1/8" = 1'-0"

[illegible]

**VICTOR BENAVIDEZ**  
drafting services

**MARTIN RESIDENCE  
PROPOSED ADDITION  
31275 HERSHEY WAY  
HAYWARD, CA**

STATISTICS  
SHEET INDEX  
VICINITY MAP  
SITE PLAN

DRAWN  
 V. BERNARDEZ  
 CHECKED  
 V.B.  
 DATE  
 11-30-01  
 SCALE  
 AS SHOWN  
 JOB NO.  
 200013  
 PROJECT

AO